

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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MAJOR LEAGUE BASEBALL PLAYERS  
ASSOCIATION,

Plaintiff,

08 CIV 04570 (VM)

vs.

STEINER SPORTS MARKETING INC.,

**AFFIRMATION OF  
RICHARD A. ROTH, ESQ.**

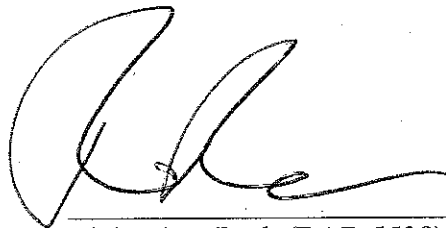
Defendants.  
-----X

**RICHARD A. ROTH, ESQ.**, states the following to be true under penalties of perjury:

1. I am a member of the bar of the State of New York, duly admitted to practice before the Southern District of New York, and founder of The Roth Law Firm, PLLC, attorneys' for Defendant Steiner Sports Marketing Inc. ("Defendant"), and submit this Affirmation in support of Defendant's motion to dismiss Count V of the Amended Complaint.

2. Annexed here as Exhibit A is a true and correct copy of a letter dated February 28, 2007, from the law firm of Shughart Thomson & Kilroy, P.C., acting as counsel to Plaintiff, sent to Defendant.

DATED: New York, New York  
July 29, 2008



Richard A. Roth (RAR 5538)

## EXHIBIT A

The Law Firm Of



A Professional Corporation

**Travis Salmon**

tsalmon@stklaw.com

Direct Dial (816) 395-0631

February 28, 2007

Steiner Sports Marketing & Memorabilia  
c/o Brandon Steiner and Jared Weiss  
33 LeCount Place  
New Rochelle, New York 10801

**VIA FEDERAL EXPRESS**

**Re: Unauthorized Use of Major League Baseball Players' Rights**

Dear Messrs. Steiner and Weiss:

We are licensing enforcement counsel for the Major League Baseball Players Association ("MLBPA"). As you know, the MLBPA is the exclusive group licensor for the publicity rights of active Major League baseball players who are members of the MLBPA. The MLBPA thus controls the right to use, license and sublicense the players' names, numbers, nicknames, likenesses, signatures, playing records and/or biographical data ("Player Rights") in commercial settings. As a former licensee, we know that Steiner Sports Marketing & Memorabilia ("Steiner") is aware of the MLBPA's exclusive ownership of the Players Rights.

It has recently come to our attention that Steiner is advertising, marketing, promoting and selling unlicensed merchandise utilizing the Player Rights. Specifically, we have learned that Steiner is using the Player Rights for commercial purposes by, for example, advertising and selling photographs of various Major League baseball players. This unauthorized use violates our client's exclusive rights to the Players Rights and is a breach of the post-termination provisions of your license agreement.

On behalf of the Major League Baseball Players Association, we hereby demand that Steiner immediately (1) cease and desist all sales, distribution, marketing and advertising of all unlicensed merchandise or other products utilizing the Players Rights; (2) immediately recover and destroy any and all unlicensed merchandise or other products sold in violation of the Major League Baseball Players Association's exclusive group licensing rights and in breach of your previous license agreement; and (3) provide specific information to our client concerning the number of units sold containing the Players Rights and the amount of revenue generated by Steiner through the unauthorized use of the Players Rights.

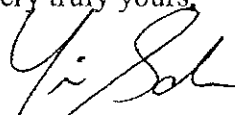
Unless you cease the offending activities immediately and fully comply with these demands, the MLBPA will have no choice but to consider Steiner's on-going actions further evidence of Steiner's intentional attempt to damage the MLBPA and to infringe upon its rights and the rights of its player-members.

February 28, 2007

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Please confirm within ten (10) business days of the day of this letter that Steiner will fully comply with the above-listed demands. If we do not hear from you on within ten business days, we will promptly advise our client as to all available legal remedies against your infringement.

Very truly yours,

A handwritten signature in black ink, appearing to read "Travis Salmon", written over the typed name.

TRAVIS SALMON

TS:vlm

cc: Judy Heeter